Let's think about that a little bit. How unfair is this? A composer at hand, by the biggest interstate carriers today provide the majority of interstate traffic, do carry the majority of calls, would collect -- and fund. That's a big concern.

In addition, any flat rate connection plan would also be good, because it would include all the carriers, and you would have to worry about safe harbor percentages, some of which were set many years ago, and may not truly reflect the amount of interstate services that some of these other services provide today.

As we go along, we are also concerned that all Internet broad band connections provide funding to the mechanism. That will be very controversial.

Currently, DSL is in the front. Cable modems don't. There is a large controversy out there. I don't know how we fix it, but it is something that would help the overall sustainability for -- contribution provider.

Here are my two last points, and I'll just read those off. Capacity based connection assessments are only in context in the administrative and workable. We are very concerned on how they do work.

Finally, we really need to look at the bifurcation of the high cost programs for schools and libraries versus the help support of high cost telecommunication services.

Thank you for your time.

MS. ABERNATHY: Thank you, Mr. Nishi.

Now Mr. Juhnke?

MR. JUHNKE: I'm Richard Juhnke, Vice President, Federal Regulatory Affairs for Sprint, and it's a pleasure to have this opportunity to appear before the Joint Board members today.

I'd like to put my remarks in the context of the criteria that Dr. Gillis advanced as criteria the Commission should follow in deciding this difficult issue. Sprint, which has a connection-based approach believes that its approach satisfies those criteria better than any of the other proposals currently before you.

First, I would agree very much with John Nakahata and Judy Walsh that the current system is broken and can't be fixed. I would like to mention a couple of points in that regard, that they omitted.

One, there are a lot of inequities, as among carriers offering competing services, under the present system. A carrier with an increasing market share and an increasing revenue base very much has an advantage because of the revenue lag effect, over carriers whose revenues are falling.

Second, because international revenues are excluded from the contribution base for carriers that are exclusively or largely concentrating on international services, those carriers have an automatic and quite substantial cost advantage over full service carriers that don't meet the threshold for the international exclusion.

IP telephony, the phone-to-phone IP telephony -- it's small in the market right now, but certainly people predict that it's going to be quite substantial in future years.

It is not subject to USF under the current system and, again, that places carriers using other technologies at something of an artificial cost disadvantage. So we agree fully that the current system is broken, and that a connection-based plan is the way to do it.

I think the one major differentiation between the Sprint plan and the coalition plan that Mr. Nakahata advocates, is the treatment of wireless carriers. We would base the wireless per contribution by taking the present contribution of the wireless industry to USF as a percentage of the total size of the USF fund, and maintain that at current levels, but break that down into a per-wireless connection charge.

Given the data in the further notice that was issued in February, that would mean something like perhaps a 46 cent charge per month, versus $1 for wire line residential customers.

And let me explain why Sprint thinks that's fair. I think, first and foremost, with wire line, ultimately, these costs -- and I know there's a separate panel on recovery issues -- but contributions wind up getting recovered through charges to consumers.

Wireless consumers today are paying the full costs of their service; whereas, the fact remains that in many areas, wire line customers have their local service cross-subsidized by other services above cost access revenues; revenues from other services, such as business services and the like.

So in terms of sort of equitable treatment of two technologies, the wire line and wireless, we think it's somewhat inequitable to expect wireless customers to pay the full cost of their services, while wire line customers are still paying rates that are somewhat below cost.

The second point I'd like to make is that when the safe harbor was adopted in late 1998, which assumed that 15 percent of wireless revenues represented interstate calls, wireless carriers, by and large, were charged extra for long distance, at that time.

Since that time, two things have happened. One, wireless rates have continued to come down; and second, wireless carriers, on many of their rate plans, have eliminated extra charges for long distance.

So even if you assume that there is an increase in interstate wireless calling, which may be a reasonable assumption, but I must say, it's a very difficult matter to measure, the 15 percent safe harbor would probably still be quite justified, because of the elimination in many rate plans of extra charges for long distance.

I'd like to contrast Sprint's plan in the time I have remaining very briefly, with the Bell South SBC plan, but I see I have no time remaining.

(Laughter.)

MR. JUHNKE: Maybe I'll get a friendly question on that. Thank you very much.

MS. ABERNATHY: Thank you very much.

Mr. Altschul?

MR. ALTSCHUL: Commissioner Abernathy and Commissioner Thompson and members of the Joint Board, thank you for this opportunity to share with you our views.

My name is Michael Altschul, and I'm the Senior Vice President and General Counsel of CTIA, the Cellular Telecommunications & Internet Association.

As you may know, we represent commercial wireless service providers and their suppliers. We recognize them as cellular/PSC carriers, primarily.

Like everyone else in all segments of the industry, CTIA and its members recognize the benefits and importance of universal service, and how telephone service provides a benefit to all Americans.

We are very proud, and I'm going to point out, that we are supporting universal service, and are willing to pay our fair share of the universal service funds that Congress has directed, on an equitable and nondiscriminatory basis.

In that regard, I must note that wireless carrier support payments have grown proportionately, as wireless carriers are growing their proportion of the nation's telecommunications revenues.

Our revenues have been growing by approximately 30 percent a year, and so have our contributions into the universal service fund.

I don't need to go over the connections-based proposal. You've heard it. Let me point out, too, the important aspects of Section 254.

First, as others have noted, it requires all carriers to contribute. And we share the views of others, as problematic; that the long distance carriers, who now contribute approximately 63 percent of the support for universal service, it would be excused from their traditional role. We just don't believe that the diminimus exception can be stretched to exclude that volume of interstate calling.

Also, the Fifth Circuit Court of Appeals in the Texas Utilities Commission case made clear that the Federal program cannot reach into non-interstate revenues. Wireless carriers have a significant number of customers, who do not use interstate revenues.

We all know and are proud of the growth of plans that include long distance with our other minutes. We still have a lot of piece of mind users, who may make few or even no calls per month; and we also are characterized by pre-paid users, who have a pre-paid relationship, that is not billed or used on a monthly basis.

Assessing customers like these, who have no interstate usage, or don't have any predictable interstate usage for contributions to the Federal programs, we feel, raises issues under Section 254.

I was happy to hear others on the panel talk about the complexity that the connection-based program or proposal glosses over. Having a residual for multi-line users, based on capacity, creates exactly the same complexities that the status quo has with bundled rates.

We all know and all benefit from the rapid growth of new technologies, the rapid growth in capacity over existing as well as new technologies, and the regulatory lag in complexity in trying to track and keep pace with these developments on an individual subscriber or even on a technology basis are going to be immense. Also, we risk running afoul of the equitable and nondiscriminatory obligations imposed by Section 254.

One of the things that has surprised me that we have recognized, and others have not, is that the size of the current fund has been remarkably stable. The pie really has not changed in its overall shape. Certainly, the slices have. The slice accounted by interstate carriers has been shrinking. The wireless carrier slice has been increasing. IREX, through their entry into long distance, are increasing their share.

And before we know and can assess whether or not the system is broken and we need to make dramatic changes, we really need to know what the projected demands of funding are going to be.

We all know that over the recent life of the program, the size of the funds has grown nearly three-fold. This has been supported by a funding base that has remained about the same.

There certainly are, and we join with others, in suggesting that Internet service providers, cable modems, and so on, should certainly be considered for expanding the base. We join others in urging that the traditional long distance providers not be excluded from funding the base.

But until we have a better sense as to where the fund is going in terms of its size, we really can't answer the question as to whether the current system is in crisis or not.

With that, I think I'll wait for your questions. Thank you.

MS. ABERNATHY: Thank you.

MR. DAY: Thank you, Chairman Abernathy. My name is Christopher Day. I'm an attorney with the Institute for Public Representation, a public interest law firm associated with the Georgetown University Law Center.

We represent Consumer Federation of American, Consumers Union, and a number of public interest and consumer groups in this proceeding.

Before I get started, I again would like to add my thanks to the Joint Board and the Commission for setting this up and inviting us here today to speak.

We have two main goals in this proceeding. The first is to ensure that USF assessment occurs in a progressive manner, that does harm residential and other relatively low use consumers.

I think right from the outset, I may be the only one, or one of the few on this panel, that we don't think the current system is broken beyond repair, or is going to enter into a death spiral. We think it can actually be fixed fairly easily, and we can get to that a little bit later on.

And our second point is basically -- and I know this will be addressed in the second panel -- but we believe that the Commission must do something to limit current abusive USF recovery practices, that often charge consumers USF recovery amounts that are far above the current rate of the USF assessment factor. We feel that that's something that really needs to be addressed in this proceeding, as well.

Basically, we have two main points in addressing the various connection-based USF recovery proposals delineated in this proceeding. Those proposals are mainly the COSAS proposal and the SBC Bell South proposal, along with also the Sprint proposal.

We feel that all the connection-based proposals do not really meet either of our goals and, in many respects, represent a step back from the current system. This is for two main reasons.

First of all, we feel that the majority of the connection-based proposals, and especially the one delineated in the MPRM and supported by COSAS violate Section 254 of the act.

Specifically, we feel that it violates that for two reason. First, a connection-based fee eliminates contribution requirements for many inter-exchange carriers.

Section 254(d) specifically states that, "Every telecommunications carrier providing interstate services shall contribute to the fund."

The proposal delineated in the notice, however, would allow a number of inter-exchange carriers, by extension, large users of telecommunication services, to essentially escape USC contribution requirements.

This, in essence, would transfer much of the contribution burden to low end users, in violation of the express requirements of Section 254.

Secondly, we feel that a connection-based fee is not equitable and non-discriminatory. Section 254(d) also requires that any USF assessment be "equitable and nondiscriminatory."

Unlike the current system, which assesses USF contribution based on actual usage, the connection based system would assess the same amount on a low use residential line, as it would on a high use business line, for at least single lines.

This clearly does not comport with the Congressional intent behind Section 254, and would really shift much of the contribution, as we see it, to low use, low income consumers.

Our second point, the connection-based fee proposal harms low income and low use customers. The flat one dollar USF connection fee proposed in the MPRM or the Bell South SBC proposal would disproportionately harm low use users, who are mainly low and moderate income residential consumers.

In order to detail the impact of the COSAS proposal, which is the main proposal, as we understand, on the table, we compiled three charts detailing the probable impact of the proposal on low use consumers. That is attached to the written materials which I submitted, and I won't go completely through those.

I would say that we also requested to see a copy of the Commission's preliminary study, which was discussed in the notice. We were not able to get a copy of that. We filed actually a Freedom of Information Act Request to get that, mainly because that contains a number of information in there, some T&S bill tracking information, that we would like to see, and as a public interest group, we really can't access.

But it must be noted, and if you look at attachment one through three, and specifically attachment one, which details essentially, as we understand it, the COSAS proposal, which would be a one dollar connection charge, plus - and they note this in their comments -- there will be an administrative fee of at least ten cents imposed probably on people's bills.

If you look at the impact of that, we studied 18 plans, and low use customers would pay more under that proposal in all but two of the plans we studied.

We also studied the impact if a 25 cent administrative fee were added, or a 51 cent administrative fee or mark-up were added. Under the 25 cent scenario, which we actually think is probably more likely, low use consumers would pay more in all but one of the plans, and under the 51 cent scenario, they would pay more in all the plans studied. So we don't really think that's fair and equitable.

I would add right now that while we mainly focused on the COSAS plan presented in the MPRM, and in our submitted written materials, we feel that it is critical to note at this point, since it's being discussed, that the SBC Bell South proposal is probably even worse. It would impose fees on both your local connection, your inter-exchange connection and ISPs.

So a low use customer that has just a regular phone line and ISP could get hit with three connection-based charges. We certainly don't think that that's fair and equitable.

I see I'm out of time. Let me just run through our proposals really, really quickly, on how we see this could be fixed.

First is that the basic revenue-based USF assessment system should be retained. As Ms. Nasuka and certain other commenters very clearly illustrated in their comments, the system is not broken or ready to enter a death spiral, as someone claimed.

Second of all, to correct any potential revenue shortfall, we believe that certain safe harbors should be re-examined, including the wireless safe harbor. Those should be either re-examined or raised or abolished. I think in saying now, I've alienated everyone on the panel.

(Laughter.)

MR. DAY: Third, the Commission should study ways to eliminate the USF assessment lag to make that more fair. And fourth, and perhaps most importantly, the Commission should either prohibit customer pass-through of carrier USF assessment, so if a customer looks at a promotion and it seeks seven cents a minute, they know it's actually going to be seven cents a minute; or, in the alternative, and at the very least, carrier recovery should be limited to the actual assessment factor.

Carriers currently do this with other regulatory fees, and we don't see any reason why they can't do it with the USF assessment.

Thank you very much.

MS. ABERNATHY: Thank you very much, Mr. Day.

I think what we'll do in the interest of time, we'll start to my right with Commissioner Dunleavy. Why don't we do two questions per Commissioner, and then if we have time for more, we'll try and get in some more.

MR. DUNLEAVY: Thank you, Madam Chairman. First, like Mr. Nishi said, I think it's magic, too. So he's not alone. I don't know whether that says something about me or not.

(Laughter.)

MR. DUNLEAVY: But be that as it may, we've heard here a variety of different opinions, whether it's good or bad. But it would appear that if there really is a problem here, that it perhaps is in the increasing demand for universal service funds, and not a decline in interstate usage.

I'm not sure that there's any evidence that the total amount of interstate and international usage minutes is declining, but it may be that some of it is shifting to services -- for example, the international or wireless -- and that may not be captured in the current USF revenue assessment base.

Now in fact, the level of that base appears to be approximately where it was in the year 2000; having declined only about one percent. Over that same period, demands on the USF fund have increased 21 percent. I think that that says something.

Now I wonder perhaps -- and I'm not directing this question at anyone specifically -- but does the contribution or connection-based assessment proposal do anything to address this problem, or does it, in fact, actually invite even greater growth in the USF? That's question number one.

Question number two, and one of my primary concerns, quite frankly, is for lower income customers, who may not be able to afford the convenience of high speed internet access.

That doesn't necessarily translate to tribal lands or rural only. I can assure you that a number of places where that situation exists -- in Brooklyn, New York. These people have no access to a cell phone or blackberry or any of that other stuff.

How does this connection-based assessment improve the lot of those customers? I invite anyone to comment; Mr. Juhnke?

MR. JUHNKE: I'd be happy to. First, I think the connection-based plan is neutral, in terms of inviting growth in the size of the programs to be supported. It's just a better mechanism if we're covering whatever amount of obligation there is to be recovered.

I think if you look at the quarterly contribution factor notices that the Commission puts out, if I've done my math right, and I remember the numbers correctly, in the last 21 months, the size of the contribution base, the interstate international revenue contribution base has fallen by 12 percent.

Now minutes continue to increase, but there's some tense price competition. Costs fall because of new technology, and the revenue base is falling really quite dramatically.

Second, as to low income customers, the Sprint plan would exempt life line customers from any charge whatsoever. Now there are customers that don't make very many calls in a month that may have very high incomes. I think income and column volume is a very weak correlation.

And also, I might add, interstate revenues and benefit from universal service programs is a very weak correlation.

Taking your home state of New York, there may be, you know, a wealthy penthouse-dwelling Manhattan-ite, who makes hundreds of dollars of calls every month to Beverly Hills, London, and Rome, who may not perceive that he or she gets any benefit from USF programs; where another Manhattan resident makes no long distance calls, generates no interstate revenues, but does receive calls from family, loved ones, in a home town in Montana, and very much benefits from the program. Thank you.

MS. WALSH: The SBC Bell South proposal also would exempt Lifeline customers. If you look at the broad base of the charges, since it includes all interstate services, a single unit of the charge would be quite small, and much smaller than if you were looking at connections.

It really is based on the amount of service that a customer uses. For example, if a customer only has local exchange service, they would have one charge. If they had local exchange and a long distance carrier, they would have two charges.

As they chose to use more services, they would have additional charges. So to the extent that a customer could only afford basic service and wasn't covered by Lifeline, then there would be a minimum number of charges on those customers.

MR. NAKAHATA: Commissioner, one other point or two other points is, on the COSAS proposal also, it exempts Lifeline customers. But more importantly, I think -- and this goes directly to something that Chris Day said -- all the studies show that universal service, the least disconnection is people having high toll bills.

The current system exacerbates that problem for somebody who is low income, but high volume. If they have a high toll bill, they are going to get a high universal service charge, which is harder for them to pay, and makes it more likely they'll fall off the network. That's what all the studies have shown.

So by implementing a low flat rate, I think this actually improves universal service, improves affordability, and we'll make sure that fewer people become disconnected, because they can't pay the high universal service charge that is levied on top of their volume toll bill. That's for low income, but still high volume, of which there are a substantial number.

I mean, our view of the data showed that the top one percent of low, or people with less than $15,000 in household income, pays $10 in universal services charges. That means, they are getting on a bill of something like $100, $10 on top. That's a real burden for somebody with less than $15,000 in income. IT pails in comparison to -- this would, for them, bring it down to something around $1.

MR. DAY: If I could just respond to that really quickly, first of all, we believe there is a correlation between low use and low income. That's I think, pointed out in both the sort of research we did in preparing our comments and also in the COSAS comments.

If you look at the COSAS comments, under their proposal, and it states it in one of the attachments, I believe.

Let me just look at my data here really quickly.

But basically, under the COSAS proposal, I believe people with household incomes between zero and $15,000 -- 62 percent of those would pay more, under the COSAS connection based proposal.

And in those households from $15,000 to $30,000, about 58 percent of those households would pay more under the COSAS proposal, as well. So I think there is a definitely correlation between low use and low income.

I think if you break down the numbers, and this is in our initial comments -- if you break down that -- and we didn't really go and look at the actual statistics they have.

But if you look at that top one percent, if they are really paying, you know, $10 a month under the current proposal, if you break that down -- and I actually had a student who is good in math, and most of us lawyers aren't -- but I had him look at it and break it down. If you look at it, the bottom 40 or 50 percent of low income users would actually pay considerably more like between 30 or 40 cents more a month.

I think it's important to note there again, the Lifeline eligibility criteria right now is still fairly low, and there are a lot of people who make right above that. And any increase in the local phone bill for these people could cause them to disconnect local service, and they may not qualify for Lifeline. That would cause them to drop off the network.

I have one last point that I would like to respond to very quickly. I just find the argument that the universal service, as it is currently administered, any sort of spike there, causing people to drop off the network, is a little bit disingenuous.

It's sort of like me saying, well, I have a $70,000 BMW, which I don't have -- I have a Volvo that drops engine parts every time I go out on I-66 -- but assuming I have this BMW, and I have a $1,000 a month payment on this BMW, and I have a $70 a month parking space, it's sort of like saying, well, you know, I can't pay for the $70 space, so I can't have my BMW.

The problem is not the $70 a month parking space. It's the $1,000 a month monthly payment, I think. I think part of the option there is to, you know, for companies who are charging migrants, immigrants, large amounts to make long distance international calls, I think dealing with that problem would be a better way to address it, rather than looking to USF.

MS. ABERNATHY: If we keep going here, none of the rest of us will get to ask any questions. So I'm going to just put a hold briefly, if that's okay, Commissioner, so we can move on to Commissioner Martin.

MR. MARTIN: Briefly, I'd like to first associate myself with some of Commissioner Dunleavy's comments about the concern being not only the size of the ongoing contribution base, but also the size of the fund that's being growing, as well, in potentially greater increments than the base has been decreasing.

And also, before I start any questions, I would like to respond to Mr. Day's concern and say that I know on behalf of myself, and I can't speak for any of other Commissioners, I would look into your FOIA request, because I would certainly want to be responsive, to make sure that you are getting the information that we are using for this.

I know that we would all want to make sure you are getting that. So I will make a commitment to try to respond to that.

My first question was actually to John Nakahata. He had mentioned that one of the problems with trying to adjust the current system was on the bundling of local and long distance minutes, that was increasingly occurring, both in the wireless and wire line side.

I was going to ask about the fact that I think the Commission has faced this potentially in the past. For example, in the private line context, and also in our reciprocal compensation order, we used the same analogy, where we actually said that where there's both state and interstate traffic on a line, if more than 10 percent of that total traffic on the line is interstate, absent specific traffic studies demonstrating another percent of interstate, we would just assume that all of it was interstate.

And I'm curious why maybe that might not be an appropriate method of proceeding; again, absent traffic studies following the same kind of role we've used in other circumstances.

MR. NAKAHATA: Again, I'd have to give your scenario more thought. But my first reaction to that is that it seems that you would apply the 10 percent, for example. That would basically end up attributing all revenue to interstate.

MR. MARTIN: Well, certainly, as I said, absent traffic studies demonstrating the opposite, as I understood, WorldCom might be, for example, under their Friends and Family Plan, actually continuing to keep track of the traffic, so that they would be able to specify the allocation in a separate manner. So clearly, people would have that option.

But I guess, as I said, I wanted to point out that the Commission has addressed that presumption in other ways in the past.

MR. NAKAHATA: Well, let me answer your question more directly, though. Here's the problem. Let's take a business contract. That's going to include interstate, intra-state telecommunications, information services, management contracts, equipment, all those different things.

When you're sitting down to negotiate that contract, you can put revenue under whichever contract you want, and as their negotiator, what you're going to care about is how can I -- representing the user, you're going to say, how can I get that number, the total amount I'm going to end up paying, and get it to be the lowest number possible?

My incentive, if I'm the representing user in that context, is to try and push money away from the areas that have assessments. So I'll put it in equipment. I'll put it in information services.

But that's the fundamental problem with the revenue-based. There's nothing magic about a dollar that says, this dollar has to be interstate, unless we're going to go back and do separations for everybody, and strictly regulate everything.

You can't have de-regulation work and still try to assess dollars in these regulatory pigeon holes, because there is nothing that is related to the real world about these pigeon holes, especially when you have to get to interstate telecommunications which, as you know better than anybody else, these are two pigeon holes that are not at all well defined.

In fact, in my practice, the hardest thing to do is to tell somebody, gee, you've got a new product. Do you have to pay universal service on it or not?

MR. MARTIN: One of the other questions that I wanted to ask of all of the panels is, to the extent that the Commission was considering a methodology of collections based upon lines, I wondered what any of the panels might think about, instead of doing it based on lines or based on actually Federal numbers -- which I'm just interested in some of your initial comments or thoughts.

I thought that that might still address some of the wireless to wire line technology substitution that's occurring. It would also address the IP telephony issues, since you would now be able to plug into the public switch telephone network, without also having a telephone number.

Actually, as a matter of fact, I think AT&T's comments originally in the docket a year ago, talked about doing it based on numbers, and so did Sprint's, as well, last Spring. They talked about on the wireless side, basing it on numbers, instead.

I was wondering if any of the commenters had the pluses and minuses of doing it on line, versus on Federal numbering policy.